IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.5969 OF 2005

M/s.Stak Cable Arts & Ors. : Petitioners

V/s.

Union Bank of India & Ors. : Respondents

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Mr.N.V.Walawalkar with Mr.Chirag Modi i/b. M/s.R.M.G. Law Associates for the petitioners.

Mrs.U.S.Fadia with Mr.Naresh Fadia i/b. Naresh Fadia for the respondent no.1.

Mr.Yogesh Gandhi for the respondent nos.2 and 3.

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CORAM : S.A. BOBDE, J.

September 6, 2005.

P.C.:

1. Rule, returnable forthwith.

The learned counsel for the respective respondents waive service of rule.

Heard by consent.

2. The petitioners, who have suffered a decree of about Rs.39,09,744/-, have challenged the order dated 13.7.2005 passed by the DRAT directing them to deposit a sum

equivalent to 40% of the aforesaid amount said to be due from them.

3. Mr.Walawalkar, the learned counsel for the petitioners, very strenuously urged that the petitioners who are borrowers and guarantors have not objected to the sale of the property. Their dispute is only as regards the mode of sale. According to the learned counsel, therefore, the amount of 40% directed to be deposited by the DRAT is excessive.

4. It is not possible to accept this argument since the learned DRAT has directed deposit of 40% of the amount, taking an overall view of the matter. The statute provides for deposit of 75% of the amount. Considering that, it appears that the DRAT refused the statutory prescription by almost half. No interference is called for. The petition is hereby dismissed. The DRAT shall decide the matter on merits. The time to deposit is extended by four weeks from today.

5. The rule stands discharged.

S.A. BOBDE, J.